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REDACTED - FOR PUBLIC INSPECTION

June 28, 2007

VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FILED/ACCEPTED

JUN 28 2007

Federal Communications Commission
Office of the Secretary

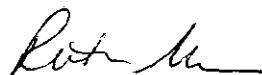
Re: *Notice of Confidential Filing*, WT Docket Nos. 96-86, 06-150 and 06-169;
PS Docket No. 06-229

Dear Ms. Dortch:

This letter provides notice for the public record that the undersigned counsel to Access Spectrum, LLC filed today a copy of a letter from the undersigned on behalf of Access Spectrum, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission under seal along with the attached request for confidential treatment. The letter to Ms. Dortch provides notice of a telephone conversation that took place on June 26, 2007 between the undersigned, on behalf of Access Spectrum, LLC, and Cathleen Massey of the Wireless Telecommunications Bureau. Access Spectrum explained that the option variant it proposed in its May 23, 2007 comments was structured in a manner that would guarantee 6 MHz of spectrum for the winning bidder on the D Block while accommodating certain of Access Spectrum's contractual obligations to its customers. The unredacted, confidential version of this filing is being hand delivered to you, under seal.

If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Ruth Milkman

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**REQUEST FOR CONFIDENTIAL TREATMENT
PURSUANT TO 47 C.F.R. §§ 0.457 AND 0.459**

June 28, 2007

VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket Nos. 96-86, 06-150 and 06-169; PS Docket No. 06-229
Request for Confidential Treatment

Dear Ms. Dortch:

Pursuant to Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), and the rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. §§ 0.457(d) and 0.459, Access Spectrum, LLC ("Access Spectrum") hereby requests confidential treatment for the attached letter to Marlene Dortch, Secretary of the Federal Communications Commission ("Access Spectrum Letter").¹ The Access Spectrum Letter contains company-specific confidential and proprietary commercial and financial information protected from disclosure by FOIA Exemption 4² and the Commission's rules protecting information that is "not routinely available for public inspection," and "would customarily be guarded from competitors."³

¹ Letter to Marlene H. Dortch, Secretary, FCC, from Ruth Milkman, Lawler, Metzger, Milkman & Keeney, LLC, Counsel to Access Spectrum, LLC (June 28, 2007) ("Access Spectrum Letter").

² 5 U.S.C. § 552(b)(4).

³ 47 C.F.R. §§ 0.457(d) and 0.459(d)(2).

1. *Identification of the specific information for which confidential treatment is sought.* Access Spectrum requests that the Access Spectrum Letter be treated as confidential pursuant to Exemption 4 of FOIA and Sections 0.457(d) and 0.459 of the Commission's rules, which protect commercial, financial, and other information not routinely available for public inspection. The Access Spectrum Letter contains company-specific, confidential commercial information concerning Access Spectrum's business relationships that would not routinely be made available to the public and customarily would be guarded from competitors. If such information were disclosed, it would provide sensitive information regarding the impact of certain business conditions and events on Access Spectrum's operations and finances. All of this information is sensitive for competitive and other reasons.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstance giving rise to the submission.* This information is being submitted in connection with a notice of *ex parte* communication in WT Docket Nos. 96-86, 06-150, and 06-169 and PS Docket No. 06-229.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.* The Access Spectrum Letter contains company-specific, confidential commercial information. It discloses sensitive information regarding its handling of various business arrangements and the impact of certain events on Access Spectrum. All of this information is sensitive for competitive and other reasons. This information would not customarily be made available to the public and customarily would be guarded from competitors.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.* The confidential information at issue relates directly to the provision of wireless communications services, which are subject to vigorous competition.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.* Since this type of information generally would not be subject to routine public inspection and would customarily be guarded from competitors, the Commission's rules recognize that release of the information is likely to produce competitive harm. Disclosure could cause substantial competitive harm because competitors could assess sensitive aspects of Access Spectrum's business arrangements and the impact of particular conditions and events on Access Spectrum.

6.-7. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure, and identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.* The

confidential information in the Access Spectrum Letter is not available to the public and has not otherwise been disclosed previously to third parties.

8. *Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.* Access Spectrum requests that the Access Spectrum Letter be treated as confidential indefinitely, as it is not possible to determine at this time any date certain by which the information could be disclosed without risk of harm.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.* The confidential information contained in the Access Spectrum Letter would, if publicly disclosed, provide knowledge of sensitive information regarding its business plans, its handling of various commercial arrangements and the impact of certain business conditions and events on Access Spectrum to the potential detriment of Access Spectrum and others. Under applicable Commission and federal court precedent, the information provided by Access Spectrum on a confidential basis should be shielded from public disclosure. Exemption 4 of FOIA shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question clearly satisfies this test.

Additionally, where disclosure is likely to impair the government's ability to obtain necessary information in the future, it is appropriate to grant confidential treatment to that information. *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) (*en banc*) (recognizing the importance of protecting information that "for whatever reason, 'would customarily not be released to the public by the person from whom it was obtained.'" (citation omitted). Failure to accord confidential treatment to this information is likely to dissuade licensees from voluntarily providing such information in future proceedings, thus depriving the FCC of information necessary to evaluate facts and market conditions relevant to policy issues under its jurisdiction.

In the event that the Commission declines to grant complete confidentiality to the information, disclosure of that information, other than to a Commission employee working directly on the matter, should be permitted only under extremely limited circumstances and with appropriate protections in place. If such a request occurs, please provide sufficient advance notice to the undersigned prior to any such disclosure to allow Access Spectrum to pursue appropriate remedies to preserve the confidentiality of the information.

Request for Confidential Treatment
June 28, 2007
Page 4 of 4

If you have any questions or require further information regarding this request, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ruth Milkman', with a long horizontal flourish extending to the right.

Ruth Milkman

**REQUEST FOR CONFIDENTIAL TREATMENT
PURSUANT TO 47 C.F.R. §§ 0.457 AND 0.459**